

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF:

DONALD L. CHOUINARD, individually; DC
WEALTH MANAGEMENT, INC., a Montana
corporation; and DC ASSOCIATES, INC., a Montana
close corporation,

Respondents.

)
) Case No.: 08-18-09-318 I
)
)
) **TEMPORARY CEASE AND**
) **DESIST ORDER AND**
) **OPPORTUNITY FOR HEARING**

The Commissioner of Securities and Insurance of the State of Montana
(Commissioner), pursuant to the authority of the Securities Act of Montana, Mont. Code
Ann. § 30-10-101, *et seq.*, and the Montana Insurance Code, Mont. Code Ann. § 33-1-
101, *et seq.*, hereby sets forth the following allegations of fact, conclusions of law, order
to cease and desist, and notice of right to a hearing:

ALLEGATIONS OF FACT

1. The relevant time period for this action is July 15, 2004, to the present.
2. Donald Chouinard ("Chouinard") was registered with the Securities
Department as a broker/dealer salesperson and investment adviser for LPL Financial
Corporation ("LPL") from May 17, 2004, until May 12, 2009, and currently resides at
279 McWeneger Drive, Kalispell, MT 59901.
3. On May 12, 2009, LPL terminated Chouinard because of a disagreement
with LPL regarding investment strategy.

4. Chouinard was also registered with the Insurance Department as an insurance producer, license # 107422, to sell life insurance, disability insurance, and variable contracts.

5. DC Wealth Management, Inc., (“DC Wealth”) was incorporated in Montana on March 12, 2004, and involuntarily dissolved on December 1, 2008.

6. Chouinard was DC Wealth’s registered agent.

7. Chouinard used DC Wealth to conduct business through LPL.

8. DC Wealth has never been registered in any capacity with the Department.

9. DC Associates, Inc., (“DC Associates”) was incorporated as a Montana close corporation on May 10, 2004, and involuntarily dissolved on December 1, 2008.

10. Chouinard was DC Associates’ registered agent.

11. DC Associates has never been registered in any capacity with the Department.

12. In June 2009, Complainant 1, Complainant 2, and Complainant 3, and in August 2009, Complainant 4, contacted the Department regarding certain securities transactions of Chouinard, who was the LPL salesperson for Complainants 1, 2, 3, and 4.

13. Complainants 1, 2, 3, and 4 alleged that Chouinard traded in their LPL accounts without authorization, traded excessively in their accounts, took money from their accounts for a day trading program and failed to account for it, misrepresented the values of their investments, offered and sold an investment in Cradlepoint Technologies (“Cradlepoint”) but would not provide proof of ownership, offered investments through a venture called Emerald Cove, and offered and sold notes through a company called Glacier Notes.

14. The following represents the results of the Securities Department's investigation regarding Complainant 1's allegations:

- a. Complainant 1's LPL account #1543-9379 was opened on September 24, 2007, with an investment objective identified as "growth."¹
- b. Complainant 1 opened the account with a \$97,864.57 deposit.
- c. The account was not a discretionary account.²
- d. Immediately after opening the account, Chouinard began a trading strategy of extensive, short-term mutual fund trading of class "A" shares.
- e. The following table outlines the level of mutual fund trading in Complainant 1's account from September 2007 through May 2009:

Year	Aggregate Mutual Fund Purchases	# Purchases	Aggregate Mutual Fund Sells	# Sells	Approximate Chouinard and LPL commissions earned from Complainant 3
2007	\$ 103,845	9	\$ 14,040	1	\$ 5,711
2008	\$ 82,400	20	\$ 95,942	11	\$ 4,532
2009	\$ 47,030	7	\$ 50,332	5	\$ 2,587
TOTALS:	\$ 233,275	36	\$ 160,314	29	\$ 12,830

- f. The following table specifically shows the various mutual funds purchased in Complainant 1's account, the average hold period for the funds, and the gain/loss from each investment:

¹ An investment objective is a financial objective that an investor uses to determine which kind of investment is appropriate. An investor with an investment objective of growth may opt to invest in a mutual fund that invests in growth stocks, the goal of which is to provide capital appreciation to the mutual funds shareholders over the long term. (Barron's Dictionary of Finance and Investment Terms, 4th Edition, pgs. 231, 277).

² A discretionary account is an account empowering a broker or adviser to buy and sell without the client's prior knowledge or consent. (*Id.* at page 142.)

Fund	Average Hold Period (in days)	Total Amount Invested	Net Gain/Loss
Blackrock Funds International Opportunities Portfolio Class A (BREAX)	129	\$ 6,010	\$ (2,807)
Blackrock Large Cap Series Funds Large Cap Value Fund Class A (MDLVX)	174	\$ 6,040	\$ (2,181)
Capital Income Builder Fund Class A (CAIBX)	253	\$ 24,547	\$ (7,781)
Capital World Growth & Income Fund Class A (CWGIX)	257	\$ 19,330	\$ (2,710)
Columbia Funds Trust I Technology Fund Class A (CTCAX)	167	\$ 5,826	\$ (563)
Eagle Capital Appreciation Fund Class A (HRCPX)	87	\$ 12,005	\$ (5,563)
Eaton Vance Growth Trust Worldwide Health Sciences Fund Class A (ETHSX)	167	\$ 6,234	\$ (645)
Fidelity Fixed Income Trust Advisor Inflation Protected Bond Fund Class A (FIPAX)	n/a	\$ 18,010	\$ (617)
First Eagle Funds Global Fund Class A (SGENX)	237	\$ 19,514	\$ (6,401)
Hartford Fortis Series Fund Class A (HGWAX)	46	\$ 16,110	\$ (965)
Hartford Mutual Funds Equity Income Fund Class A	305	\$ 17,626	\$ (2,971)
Jennison 20/20 Focus Fund Class A (PTWAX)	n/a	\$ 12,715	\$ 1,516
Loomis Sayles Funds II Growth Fund Class A (LGRRX)	137	\$ 15,005	\$ (2,841)
Lord Abbett Bond Debenture Fund Class A (LBNDX)	81	\$ 6,957	\$ (24)
Lord Abbett Research Fund Large Cap Core Fund Series A (LRLCX)	123	\$ 15,982	\$ (1,807)
Pimco Funds Pac Inv Management Series Commodity Real Return Strategy Fund Class A (PCRAX)	168	\$ 14,456	\$ (1,519)
Rydex Dynamcis Funds Inverse NASDAQ 100 2X Strategy Class A (RYVTX)	34	\$ 19,510	\$ (3,013)
Victory Portfolios Diversified Stock Fund Class A (SRVEX)	197	\$ 5,628	\$ (447)
TOTALS	AVG: 160	\$ 241,504	\$ (41,337)

g. None of the mutual fund transactions in Complainant 1's LPL account were marked "unsolicited."³

h. In every case, Class A shares were purchased. Class A shares carry a front-end load that is taken off the initial investment. Class A shares are primarily for investors who desire to purchase and hold a mutual fund position for a long investment horizon, which was Complainant 1's desire.

i. For Complainant 1, the average hold period for a mutual fund was only 160 days and the average commission paid by Complainant 1 for the mutual funds purchased was approximately 5.5%.

j. Besides the high front end load incurred on each of the transactions, Chouinard invested Complainant 1's money in 18 different funds and 14 different families of mutual funds and by doing so, he caused Complainant 1 to miss breakpoint opportunities⁴ and rights of accumulation.⁵

k. Chouinard did not get Complainant 1's authorization to purchase or sell any of the mutual funds, nor did he provide Complainant 1 with a prospectus for any of the funds.

³ The Rules and Regulations of the Securities Industry require that order tickets and the corresponding confirmations be marked either Solicited or Unsolicited when the broker or broker-dealer executes a trade in a client's account. Since Chouinard did not mark Complainant 1's mutual fund transactions as "unsolicited," it was his idea to buy or sell the mutual funds.

⁴ Break points in mutual funds are the dollar investment require[d] to make the fundholder eligible for a lower sales charge. (*Id.*, pg. 62).

⁵ Right of accumulation is a right that allows a shareholder to receive reduced sales charges when the amount of mutual funds purchased, plus the amount already held, equals a right of accumulation breakpoint.

l. In addition, LPL's policies and procedures required Chouinard to obtain a mutual fund "switch letter" for each of the mutual fund switches he conducted in Complainant 1's account.

m. The Department requested all mutual fund switch letters for Complainant 1's account from LPL and LPL was unable to provide any.

n. LPL told the Department that there was a possibility that Chouinard had possession of all of Complainant 1's "switch letters."

o. Chouinard failed to provide the Department with copies of Complainant 1's switch letters.

p. In total, Chouinard executed 65 mutual fund purchases and sales without Complainant 1's authorization, causing a gross loss of approximately \$49,206 in Complainant 1's portfolio and a net loss of \$41,377, after dividends and income of \$8,088.

q. Additionally, in August 2004 Chouinard also convinced Complainant 1 to invest in DC Associates for a day trading program at a virtual trading site identified as Interactive Brokers.

r. In August 2004 Complainant 1 gave Chouinard \$12,500 and, since then, Chouinard has represented to Complainant 1 on different occasions that Complainant 1's account was worth anywhere between \$60,000 – \$90,000.

s. A Securities Department review of Complainant 1's sub-account in DC Associates at Interactive Brokers shows an average value throughout the period of \$4,728, indicating Chouinard overstated Complainant 1's account by approximately 1500%.

15. The Securities Department obtained the following information from Complainants 2 and 3:

a. Since May 2004 Complainant 2 has maintained accounts with Chouinard at LPL.

b. Complainant 2's primary account at LPL, opened in May 2004, is account #5338-6319. Complainant 2 provided documentation from LPL indicating Complainant 2's investment objectives were "Income and Moderate Growth."⁶

c. Chouinard did not have discretionary authority for Complainant 2's primary account.

d. Chouinard continually traded this account without Complainant 2's authorization, never provided a prospectus on the mutual funds or the annuity Complainant 2 purchased, charged Complainant 2 hundreds of thousands of dollars in commissions on the account, and without Complainant 2's authority, moved \$200,000 from the account to an investment entitled DC Associates for the day trading program at Interactive Brokers.

e. Complainants 2 and 3 provided the Department with a Disclosure Document dated June 2, 2004, from DC Associates, the day trading program Chouinard told them he was using.

⁶ An investment objective is a financial objective that an investor uses to determine which kind of investment is appropriate. An investor with an investment objective of income and growth may opt to invest in a mutual fund that seeks earnings earnings growth as well as income. (Barron's Dictionary of Finance and Investment Terms, 4th Edition, pgs. 231, 277).

f. The introductory letter to the Disclosure Document is signed by Chouinard and the disclosure document indicates DC Associates has three trading programs as follows:

The Index Program – based on following the trend of the market Index's [sic]. This system is basically a trend following program. These programs are always being tested to assure that they are achieving the best possible results. This program also uses strict risk and money management rules.

Basic Futures Program – is a trend following system that has been developed over numerous years of research. This program is not limited to any specific commodity or future. It has the flexibility to trade any market. There are also four other programs inside of this one. Each one is always being tested and researched to make sure it is achieving the best possible results. This program also uses strict risk and money management rules.

The Stock Program – is based off of following what market leaders have always done. This program has a very extensive screening process to focus on the best stocks that have the most potential for growth. This program takes all of the past historical data of market winners and tries to find stocks in today's market that fit the same characteristics of previous market winners. This program also uses strict risk and money management rules.

g. The DC Associates disclosure document includes a "fees" section showing that "DC will charge an incentive fee of 25% of Net Trading Profits for each quarterly period unless specified."

h. The document defines "Net Trading Profits" as Gross Trading Performance Plus Interest ("GTPPI") for the period minus any "Carryforward Loss" from previous periods.

i. Fees were due and payable from Complainants 2 and 3 on March 31, 2005; June 30, 2005; September 30, 2005; and December 31, 2005.

j. In July 2004 Complainant 2 invested \$200,000 in the DC Associates day trading platform.

- k. In August 2004 Complainant 3 invested \$45,000 in the DC Associates day trading platform.
- l. The funds came directly from Complainant 2 and 3's LPL account, \$200,000 from Complainant 2's LPL account #5538-6319 and \$45,000 from Complainant 3's LPL IRA account #3167-0384.
- m. From July 2004 through April 2009 Chouinard regularly sent Complainants 2 and 3 e-mails updating them on the value of their DC Associates investments.
- n. Complainants 2 and 3 did not receive statements or IRS Form 1099's on the investments and, even though the investments were not accounted for on their LPL monthly statements, Chouinard continually assured them that the investments were safe with LPL and that taxes were not assessed on the growth of the investments until they made a withdrawal from their investments.
- o. The following table shows the values of the DC Associates investments as Chouinard reported to Complainants 2 and 3 via e-mail:

E-Mail Date	From	To	Complainant 2's investment Value	Complainant 3's investment Value
01/04/2007	Chouinard	Complainants 2 & 3	\$ 784,649	\$ 173,264
02/01/2007	Chouinard	Complainants 2 & 3	\$ 773,985	\$ 170,839
03/05/2007	Chouinard	Complainants 2 & 3	\$ 789,464	\$ 174,243
05/02/2007	Chouinard	Complainants 2 & 3	\$ 821,042	\$ 181,212
02/08/2008	Chouinard	Complainants 2 & 3	\$ 1,002,712	\$ 240,496
04/16/2008	Chouinard	Complainants 2 & 3	\$ 983,661	\$ 236,427
05/12/2008	Chouinard	Complainants 2 & 3	\$ 1,007,268	\$ 242,101
08/08/2008	Chouinard	Complainants 2 & 3	\$ 1,073,887	\$ 257,136
09/08/2008	Chouinard	Complainants 2 & 3	\$ 1,082,478	\$ 259,193
03/06/2009	Chouinard	Complainants 2 & 3	\$ 904,849	\$ 173,605

p. A review of Chouinard's representations as to the value of the investments compared with the ACTUAL value of the investments shows that Chouinard overstated Complainant 2's investment by 10,000% and overstated Complainant 3's by 1000%.

q. The following table shows a comparison of the actual value compared to Chouinard's assertions to Complainants 2 and 3:

E-Mail Date	Complainant 2's investment value as reported to her by Chouinard via e-mail	ACTUAL value of Complainant 2's investment in the "day trading" program	Complainant 3's investment value as reported to her by Chouinard via e-mail	ACTUAL value of Complainant 3's investment in the "day trading" program
1/4/2007	\$ 784,649	\$ \$7,945	\$ 173,264	\$ 20,972
2/1/2007	\$ 773,985	\$ \$7,945	\$ 170,839	\$ 21,017
3/5/2007	\$ 789,464	\$ \$7,935	\$ 174,243	\$ 21,048
5/2/2007	\$ 821,042	\$ \$7,925	\$ 181,212	\$ 21,048
2/8/2008	\$ 1,002,712	\$ \$7,854	\$ 240,496	\$ 21,129
4/16/2008	\$ 983,661	\$ \$7,854	\$ 236,427	\$ 21,435
5/12/2008	\$ 1,007,268	\$ \$7,854	\$ 242,101	\$ 21,496
8/8/2008	\$ 1,073,8870	\$ 7,845	\$ 257,136	\$ 17,190
9/8/2008	\$ 1,082,478	\$ 7,845	\$ 259,193	\$ 13,371
3/6/2009	\$ 904,849	\$ 7,798	\$ 173,605	\$ 13,332

r. On or about April 21, 2009, Chouinard introduced Complainants 2 and 3 to an investment entitled Emerald Cove Resort/The Sanctuary at Emerald Cove in the Philippines and solicited them to invest \$500,000 in the venture.

s. In an e-mail dated April 21, 2009, Chouinard told them that the hotel was already turning a profit of \$4 million a year.

t. During a 30-day e-mail and Skype string between Chouinard and Complainant 2, Complainant 2 expressed concern with the risk of the venture and Chouinard continually stated that he had done his due diligence, that the venture was not risky, and that he had personally visited the Resort.

u. Complainants 2 and 3 ultimately did not invest in the investment opportunity.

v. In March 2009 Chouinard also solicited Complainant 2 to invest in Cradlepoint after telling Complainant 2 that the company was poised to go public in the next few months.

w. On or about March 19, 2009, Complainant 2 gave Chouinard \$50,000 to invest in Cradlepoint, but never received a stock certificate or any evidence of ownership.

x. Throughout May and early June 2009 Complainant 2 continually asked Chouinard about the investment and ultimately demanded the money back.

y. On June 23, 2009, the Department spoke with Chris Alms, an officer of Cradlepoint in Boise, Idaho, regarding Complainant 2's purchase of Cradlepoint stock.

z. Alms told the Department that Cradlepoint is privately held and does not anticipate ever going public and that Cradlepoint has a "right of first refusal" clause in its bylaws, which states that before an existing shareholder can sell their stock, they need to offer it back to Cradlepoint.

aa. Cradlepoint has less than 30 investors, all of whom are institutional or accredited investors and Alms told the Department that Complainant 2 is not now, nor has Complainant 2 ever been, a shareholder in Cradlepoint.

bb. The \$50,000 Complainant 2 gave Chouinard in March 2009 was deposited in DC Wealth's account #10206077 at Glacier Bank in Kalispell, Montana, on which Chouinard is the only signatory.

cc. At the time Complainant 2's funds for the Cradlepoint investment were deposited into Chouinard's Glacier Bank account, the account had a negative balance.

dd. A Securities Department review of the Glacier Bank account activity shows that Complainant 2's funds were used as follows:

- (1) \$ 19,860 was transferred to Chouinard's joint checking account with his wife;
- (2) \$ 8,632 was used to purchase gasoline, travel, food, and other personal items;
- (3) \$ 8,500 was wired to Source National Funding in regard to Emerald Cove;
- (4) \$ 1,500 was used to pay Chouinard's Bank of America credit card; and
- (5) \$ 11,508 was used for Chouinard's office and payroll-related expenses.

ee. In early June 2009 Complainant 2 began demanding the Cradlepoint funds back from Chouinard and even though Chouinard assured Complainant 2 in his e-mails that the funds were in his "trust" account. At the time Complainant 2 demanded return of the Cradlepoint investment funds, Chouinard's Glacier Bank account where those funds had been deposited only had a balance of approximately \$1,732.

16. As part of its investigation, the Securities Department also obtained the following information relative to Complainant 2's LPL account # 5338-6319:

a. When the account was opened in May 2004 Complainant 2 transferred in three mutual funds valued at \$94,980, nine tax-free municipal bonds valued at \$795,901, and two equity positions with a value of \$2,598,012.

b. This was not a discretionary account.

c. In July 2004 per Chouinard's instructions, \$200,000 was wired from Complainant 2's LPL account to Interactive Brokers without Complainant 2's authorization.

d. During the years 2004 and 2005 limited trading occurred in the LPL account and the trading was relatively consistent with Complainant 2's investment objectives of income and moderate growth.

e. By early 2006 the trading level in Complainant 2's account escalated substantially and the type of trading activity changed to extensive, short-term mutual fund trading of class "A" shares.

f. The following table outlines the level of mutual fund trading in Complainant 2's account for the period 2005 through May 2009:

Year	Aggregate Mutual Fund Purchases	# Purchases	Aggregate Mutual Fund Sells	# Sells	Approximate Chouinard and LPL commissions earned from Complainant 2
2005	\$ 84,750	2	\$ 110,388	3	\$ 4,661
2006	\$ 274,159	6	\$ 183,428	4	\$ 15,079
2007	\$ 3,327,071	53	\$ 1,154,115	13	\$ 110,990
2008	\$ 1,603,260	52	\$ 2,543,556	40	\$ 88,179

2009	\$ 390,040	8	\$ 869,423	17	\$ 21,452
TOTALS:	\$ 5,679,280	121	\$ 4,860,910	77	\$ 240,361

g. The following table demonstrates the various mutual funds purchased in Complainant 2's account, the average hold period for the funds, and the gain/loss from each investment:

Fund	Average Hold Period (in days)	Total Amount Invested	Gain/Loss
Allianz Funds Multi-Manager Series CCM Mid Cap Class A	n/a	\$ 85,010	\$ (431)
American Balanced Fund Class A	404	\$ 256,872	\$ (52,718)
Blackrock Funds High Yield Bond Portfolio Class A	181	\$ 64,965	\$ (18,179)
Blackrock Funds International Opportunities Fund Class A	192	\$ 299,859	\$ (123,868)
Calvert Impact Fund Mid Cap Value Fund Class A	n/a	\$ 59,515	\$ (11,159)
Capital Income Builder Fund Class A	403	\$ 393,013	\$ (27,757)
Capital World Growth & Income Fund Class A	414	\$ 313,771	\$ (52,472)
Columbia Funds Series Trust Marsico Growth Fund Class A	109	\$ 62,838	\$ (10,925)
Columbia Funds Trust I Technology Fund Class A	167	\$ 26,195	\$ (4,156)
Davis New York Venture Funds Class A	106	\$ 85,010	\$ (10,545)
Delaware Group Equity Funds II Value Fund Class A	83	\$ 96,596	\$ (22,015)
Eagle Capital Appreciation Fund Class A	117	\$ 73,015	\$ (25,366)
Eaton Vance Growth Trust Worldwide Health Sciences Fund Class A	101	\$ 55,444	\$ (6,606)
Eaton Vance National Limited Maturity Municipal Fund Class A	n/a	\$ 78,187	\$ (2,145)
Federal Market Opportunity Fund Class A	59	\$ 80,005	\$ (7,095)

Federated Income Sec Muni & Stock Advantage Fund Class A	105	\$ 125,985	\$ (3,521)
Federated Market Opportunity Fund Class A	108	\$ 176,418	\$ (9,066)
Fidelity Fixed Income Trust Advisor Inflation Protected Bond Fund Class A	n/a	\$ 40,005	\$ (1,524)
First Eagle Funds Global Fund Class A	179	\$ 174,689	\$ (42,476)
Franklin International Trust Global Long Short Fund Class A	153	\$ 45,005	\$ (3,197)
Gabelli Equity Series Funds Equity Income Fund Class A	250	\$ 93,842	\$ (11,997)
Growth Fund of America Class A	288	\$ 133,174	\$ (39,429)
Hartford Mutual Funds Equity Income Fund Class A	295	\$ 327,546	\$ (99,958)
Hartford Fortis Series Fund Growth Fund Class A	105	\$ 75,536	\$ (5,706)
Hartford Mutual Funds Capital Appreciation Fund Class A	198	\$ 102,835	\$ (20,414)
Income Fund of America Class A	269	\$ 384,609	\$ (27,284)
Jennison 20/20 Focus Funds Class A	84	\$ 125,015	\$ 4,079
Loomis Sayles Funds II Growth Fund Class A	115	\$ 132,315	\$ (14,628)
Lord Abbett American Value Fund Class A	133	\$ 245,612	\$ (19,783)
Lord Abbett Research Fund Americas Value Fund Class A	64	\$ 141,488	\$ (9,592)
Lord Abbett Research Fund Large Cap Core Fund Series A	281	\$ 128,114	\$ (12,257)
Lord Abbett Securities Trust Alpha Strategy Fund Class A	115	\$ 71,944	\$ (23,938)
Lord Abbett Securities Trust All Value Fund Class A	225	\$ 53,880	\$ (5,886)
Mainstay Funds Large Cap Growth Fund Class A	117	\$ 132,315	\$ (11,247)
Mutual Series Fund Discovery Fund Class A	179	\$ 142,514	\$ (30,816)
Oppenheimer Commodity Strategy Total Return Fund Class A	128	\$ 100,010	\$ 3,171

Oppenheimer Real Estate Asset Fund Class A	96	\$ 100,010	\$ (7,139)
Phoenix Equity Trust Small Cap Sustainable Growth Fund Class A (Now Virtus Equity Trust)	155	\$ 80,020	\$ (26,170)
Pimco Funds Pac Investment Management Series Commodities Real Return Strategy Fund Class A	173	\$ 141,706	\$ (10,940)
Prudential Investment Portfolio Jennison Growth Fund Class A	117	\$ 112,315	\$ (14,557)
Rydex Dynamics Funds Inverse NASDAQ 100 2X Strategy Fund Class A	34	\$ 100,010	\$ (14,390)
Thornburg Investment Trust International Value Fund Class A	63	\$ 121,218	\$ 14,567
Transamerica Fund Equity Fund Class A	267	\$ 104,815	\$ (18,909)
Victory Portfolios Diversified Stock Fund Class A	158	\$ 75,436	\$ (2,324)
TOTALS	AVG 170		\$ (840,768)

h. None of the mutual fund transactions in Complainant 2's LPL account were marked "unsolicited."

i. Since the account was not a discretionary trading account, Chouinard was required to contact Complainant 2 before executing any transactions in the account, but he did not.

j. Chouinard purchased Class A shares with every mutual fund purchase.

k. As stated previously, Class A shares are primarily for investors who desire to purchase and hold a mutual fund position for a long investment horizon, but in Complainant 2's case, the average hold period for a mutual fund was only 170 days and the average commission paid by Complainant 2 for the mutual funds purchased was nearly 5%.

l. By not having a long hold period for Class A shares of a mutual fund, Chouinard received higher commissions the more times he traded Class A shares.

m. Besides the high front end load incurred on each of the transactions, Chouinard invested Complainant 2's money in 44 different funds and 30 different families of mutual funds.

n. By doing so, he caused Complainant 2 to miss breakpoint opportunities and rights of accumulation.

o. Chouinard did not get Complainant 2's authorization to purchase or sell any of the mutual funds, nor did he provide a prospectus for any of the funds.

p. In addition, LPL's policies and procedures required Chouinard to obtain a mutual fund "switch letter" for each of the mutual fund switches he conducted in Complainant 2's account.

q. Chouinard was also required to provide Complainant 2 with a prospectus for each fund purchased.

r. According to LPL's policies and procedures, the "switch letter" must contain (1) the name of the mutual fund being sold; (2) the name of the mutual fund being purchased; (3) the total amount of any surrender charges, redemption fees, commissions, sales charges, transfer fees, and other costs associated with the liquidation and purchase (including the percentage of investment value); (4) an acknowledgement initialed by the client regarding tax consequences and benefits lost due to the switch; (5) an explanation as to why the

replacement transaction is appropriate for the client, including the advantages and disadvantages of the exchange; (6) the date the prospectus was provided to the client; and (7) duly dated signatures of both the client and the account representative.

s. Complainant 2 told the Department that Chouinard never presented any “switch letters” to Complainant 2 and that Complainant 2 never signed any that had the information required by LPL’s policies and procedures as described herein.

t. Complainant 2 also told the Department that Complainant 2 did not receive prospectuses on her mutual fund investments.

u. The Department requested from LPL the 76 switch letters that should have been generated for the 121 mutual fund purchases and 77 mutual fund sales in Complainant 2’s account and LPL was only able to provide 17 letters, all from the spring of 2008.

v. Each of the 17 letters provided by LPL were blank in regards to the mutual fund being sold and purchased; blank as to surrender charges, redemption fees, commissions, sales charges, transfer fees and other costs associated with the liquidation and purchase, including the percentage of investment value; the reasons outlined for the exchanges were simplistic and absent of advantages and disadvantages; and each of the 17 letters had what appeared to be fabricated signatures for Complainant 2.

w. Chouinard has failed to provide any switch letters to the Department.

x. Chouinard also placed \$1,000,000 of Complainant 2's money in a Hartford Life Director VII ILA variable annuity⁷, which is composed of a series of Hartford mutual funds.

y. Complainant 2 told the Securities Department that Chouinard failed to obtain authorization to purchase the annuity or make additional purchases in the annuity.

z. Complainant 2 also told the Securities Department that Chouinard failed to provide a disclosure document, brochure, or prospectus for the variable annuity.

aa. The following table shows the status of Complainant 2's variable annuity and history of Chouinard's actions:

Date	Amount
06/26/2007	\$ 600,000
12/27/2007	\$ 100,000
01/22/2008	\$ 70,000
04/07/2008	\$ 100,000
04/23/2008	\$ 40,000
06/13/2008	\$ 90,000
Total Invested	\$ 1,000,000
Current Value	\$ 801,236
Gain/Loss	\$ (198,764)

bb. In summary, during the time period Complainant 2 maintained account #5338-6319 with Chouinard at LPL, Chouinard executed a total of 198 mutual fund purchases and sales without Complainant 2's authorization, causing a gross loss from the trading of mutual funds of approximately \$1,067,580 in Complainant 2's portfolio and a net loss of \$840,768 after dividends and income

⁷ Variable annuities are both insurance products under the Montana Insurance Code and a security under the Securities Act, requiring licensure prior to offering or selling these products to Montana consumers/investors. Variable annuities typically require a lengthy hold period with expensive surrender penalties and very high commissions.

of \$226,812, and a loss of \$198,764 in Complainant 2's portfolio from the purchase of a Hartford Life Director VII ILA variable annuity.

17. The Securities Department received the following information regarding Complainant 3's LPL IRA account # 3167-0384.

a. Complainant 3's account was opened in May 2004 with investment objectives identified as "income and moderate growth."

b. When the account was originally opened, the account was comprised of 50% mutual funds and equities and 50% cash.

c. This was not a discretionary account.

d. In August 2004, per Chouinard's instructions, \$45,000 was wired from Complainant 3's LPL account to Interactive Brokers.

e. During 2005 limited trading occurred in the account and the trading was relatively consistent with Complainant 3's investment objectives.

f. By early 2006 the trading level in Complainant 3's account escalated substantially and the type of activity changed to extensive, short-term mutual fund trading of class "A" shares for an account with an average net equity of approximately \$45,000.

g. The following table outlines the level of mutual fund trading in Complainant 3's account for the period 2005 through May 2009:

Year	Aggregate Mutual Fund Purchases	# Purchases	Aggregate Mutual Fund Sells	# Sells	Approximate Chouinard and LPL commissions earned from Complainant 3
2005	\$ 41,589	2	\$ 0	0	\$ 2,131
2006	\$ 44,460	5	\$ 37,224	5	\$ 2,279
2007	\$ 47,958	8	\$ 48,143	6	\$ 2,458
2008	\$ 66,070	14	\$ 66,290	13	\$ 3,386
2009	\$ 26,025	5	\$ 26,156	5	\$ 1,334
TOTALS:	\$ 226,102	34	\$ 177,813	29	\$ 11,588

h. The following table demonstrates the various mutual funds purchased in Complainant 3's account, the average hold period for the funds, and the gain/loss from each investment:

Fund	Average Hold Period (in days)	Total Amount Invested	Gain/Loss
American Balanced Fund Class A	n/a	\$ 22,903	\$ 2,731
Blackrock Funds High Yield Bond Portfolio Class A	n/a	\$ 4,090	\$ (713)
Blackrock Funds International Opportunity Portfolio Class A	168	\$ 3,805	\$ (1,891)
Blackrock Large Cap Series Funds Large Cap Value Fund Class A	213	\$ 3,823	\$ (1,484)
Capital Income Builder	368	\$ 12,987	\$ 150
Columbia Funds Trust I Technology Fund Class A	167	\$ 2,518	\$ (335)
Eaton Vance Growth Trust Worldwide Health Sciences Trust Class A	167	\$ 2,731	\$ (345)
Federated Market Opportunity Fund Class A	138	\$ 10,164	\$ (826)
Fixed Fidelity Income Trust Adv. Inflation Protected Bond Fund Class A	n/a	\$ 12,510	\$ (434)
First Eagle Funds Global Fund Class A	234	\$ 11,190	\$ (3,583)

Franklin International Trust Global Long Short Fund Class A	153	\$ 8,155	\$ (773)
Hartford Mutual Fund Capital Appreciation Fund Class A	408	\$ 7,815	\$ 746
Hartford Mutual Fund Equity Income Fund Class A	649	\$ 10,131	\$ (881)
Heritage Capital Appreciation Trust Class A	79	\$ 14,510	\$ (6,652)
Income Fund of America Class A	103	\$ 8,334	\$ (765)
Investment Company of America	1296	\$ 26,027	\$ 6,707
Jennison 20/20 Focus Funds Class A	n/a	\$ 5,010	\$ 613
Lord Abbett Affiliated Fund Class A	130	\$ 7,666	\$ (1,240)
Lord Abbett Bond Debenture Fund Class A	199	\$ 3,103	\$ (736)
Lord Abbett Developing Growth Fund Class A	331	\$ 4,105	\$ (1,675)
Lord Abbett Growth Opportunity Fund Class A	63	\$ 8,423	\$ (702)
Lord Abbett Research Fund Large Cap Core Fund Class A	196	\$ 8,338	\$ 102
Oppenheimer Commodity Strategy Total Return Fund Class A	181	\$ 8,005	\$ 362
Oppenheimer Real Asset Fund Class A	149	\$ 10,005	\$ (2,000)
Pimco Funds Pac Investment Mgt. Series Commodity Real Return Strategy Fund Class A	231	\$ 8,587	\$ 487
Rydex Dynamics Funds Inverse NASDAQ 100 2X Strategy Fund Class A	34	\$ 11,010	\$ (1,752)
Victory Portfolios Diversified Stock Fund Class A	197	\$ 2,413	\$ (240)
TOTALS	AVG = 255	\$ 238,357	\$ (15,129)

i. None of the mutual fund transactions in Complainant 3's LPL IRA account were marked "unsolicited."

j. In every case, Class A shares were purchased, allowing Chouinard to make higher commissions with every trade in Class A shares he made.

k. In Complainant 3's case, the average hold period for a mutual fund was only 255 days and the average commission paid by Complainant 3 for the mutual funds purchased was approximately 5.125%.

l. Besides the high front end load incurred on each of the transactions, Chouinard invested Complainant 3's money in 27 different funds and 18 different families of mutual funds.

m. By doing so, Chouinard caused Complainant 3 to miss breakpoint opportunities and rights of accumulation.

n. Chouinard did not get Complainant 3's authorization to purchase or sell any of the mutual funds, nor did Chouinard provide a prospectus for any of the funds.

o. LPL's policies and procedures required Chouinard to obtain a mutual fund "switch letter" for each of the mutual fund switches he conducted in Complainant 3's account. Specific information is required for each switch letter by LPL policies and procedures as set forth herein.

p. Complainant 3 failed to provide any switch letters to Complainant 3 and Complainant 3 never signed any switch letters.

q. In summary, during the period Complainant 3 maintained account #3167-0384 with Chouinard at LPL, Chouinard executed a total of 63 mutual fund purchases and sales without Complainant 3's authorization, causing a gross loss of approximately \$27,383 in his portfolio and a net loss of \$15,129 after dividends and income of \$12,255.

18. Chouinard was registered with the Securities Department in both the capacity of a securities salesperson and an investment adviser representative.

19. Chouinard transacted Securities business for Complainants 1, 2, and 3 in his capacity as a securities salesperson, wherein each Complainant paid a substantial retail commission for every mutual fund purchase made in his or her account.

20. In his capacity as an investment adviser representative, Chouinard could have placed Complainants 1, 2, and 3 in an advisory account, such as LPL's Strategic Asset Management ("SAM") account or a SAM II account.

21. In a SAM or SAM II account, Chouinard could have invested Complainant 1, 2, and 3's investment dollars in managed similar mutual funds that were no-load or load-waived.⁸

22. Had Chouinard placed Complainant 1, 2, and 3's dollars in an LPL managed account, such as SAM or SAM II, instead of a retail brokerage account, Complainants 1, 2, and 3 would have had access to the similar mutual fund investments but would have paid a fraction in costs and fees, as compared to what they were charged by Chouinard and LPL for the hundreds of mutual fund transactions he executed in their retail brokerage accounts.

23. The following represents the results of the Securities Department's investigation regarding Complainant 4's allegations.

⁸ A no-load fund is a mutual fund offered by an open-end investment company that imposes no sales charge (load) on its shareholders. In contrast, a load fund is a mutual fund that is sold for a sales charge. The stated advantage of a load fund is that the salesperson will explain the fund to the customer and advise him or her when it is appropriate to sell the fund, as well as when to buy more shares. A no-load fund does not give advice on when to buy or sell. (*Id.* at 306, 370).

- a. In August 2009 Complainant 4 contacted the Securities Department after becoming concerned about investments she made through LPL and Chouinard.
- b. Chouinard was Complainant 4's securities salesperson at LPL.
- c. In approximately July 2004 Chouinard solicited Complainant 4 to invest in his DC Associates "day trading" platform through LPL and Complainant 4 gave him \$30,000 for this investment opportunity.
- d. Complainant 4 never received statements or IRS Form 1099's but, whenever Complainant 4 called Chouinard to inquire, he would provide a current value of the investment.
- e. Chouinard told Complainant 4 that there were no tax consequences on the day trading until a withdrawal from the investment was made.
- f. Complainant 4 said the \$30,000 investment grew to \$60,000 over approximately three years and in November 2008 Chouinard said it was performing well, contrary to the market, and that it was worth \$90,000.
- g. In February or March 2009 Chouinard told Complainant 4 that the investment was only worth \$60,000.
- h. In late June 2009 Chouinard contacted Complainant 4 about investing \$200,000 in Emerald Point, a hotel development in the Philippines.
- i. Chouinard told Complainant 4 that Complainant 4 would make an extraordinary return in a very short time on the investment.
- j. Complainant 4 told Chouinard that Complainant 4 could not afford to invest \$200,000 and could not afford the risk.

k. Chouinard, however, ultimately convinced Complainant 4 to invest \$100,000 in the DC Associates “day trading” platform and told Complainant 4 the investment would earn 40% in 30 days.

l. Complainant 4 obtained the \$100,000 by getting a short term, 90-day loan on Complainant 4’s property, which is due in mid-September 2009.

m. Chouinard promised Complainant 4 access to Complainant 4’s money whenever it was needed.

n. During the week of August 10, 2009, Complainant 4 contacted Chouinard and requested \$12,000 from the \$100,000 investment.

o. Chouinard was evasive and when Complainant 4 finally demanded money, he wrote Complainant 4 a check that came back non-sufficient funds (“NSF”).

p. Complainant 4 tried on multiple occasions to cash the check and Chouinard kept blaming the problem on Glacier Bank.

q. After several attempts, the check cleared.

r. In total, Complainant 4 invested \$30,000 in July 2004 in Chouinard’s DC Associates “day trading” platform and \$100,000 on or about June 19, 2009, in an investment that Chouinard said would be the DC Associates “day trading” platform.

s. Chouinard told Complainant 4 that he would return the \$100,000 by Friday, August 29, 2009, but failed to do so.

t. A review of Glacier Bank account #10206077 where Chouinard deposited Complainant 4’s \$100,000 on June 19, 2009, shows that the funds were

not invested in the “day trading” investment, as represented by Chouinard, but instead were used as follows:

- (1) \$ 50,000 paid to Complainant 2 via Check #1175 to meet her demand on the return of her Cradlepoint funds;
- (2) \$ 20,000 paid to Eric Zagrans, Attorney at Law, via Check #1176;
- (3) \$ 5,000 paid to Eric Zagrans, Attorney at Law, via Check #1177; and
- (4) \$ 25,000 transferred to Chouinard’s joint checking account with his wife.

24. The Securities Department also received and reviewed documents provided by Interactive Brokers regarding DC Associates’ “trading platform.”

a. In July 2004 Chouinard established a “friends and family” account entitled “DC Associates” at Interactive Brokers.

b. Under account F164856, Chouinard established eight sub-accounts: Complainant 1 (U165918); Complainant 2 (U165921); Complainant 3 (U165924); Complainant 4 (J165915); DC & Associates (U516011); Investor 1 (U165907); Investors 2 and 3 (U178925); and Investor 3 (U179618).

c. All sub-accounts total to the DC Associates account F164856 and only a monthly statement is sent to DC Associates.

d. A Securities Department review of the trading activity in the accounts indicates Chouinard executed thousands of trades in securities and futures in the eight sub-accounts.

e. Specifically, in August 2004 Investor 1 invested \$45,000 in an IRA in the “day-trading” platform. During the period August 2004 through May 2009 Chouinard executed hundreds of trades at Interactive Brokers, resulting in a loss

of \$29,080.03 and commissions and fees of \$12,280.36. The account currently has a balance of approximately \$2,134.06.

f. In November 2004 Investors 2 and 3 invested \$4,875.34 in the “day-trading” platform. During the period November 2004 through June 2008 Chouinard executed hundreds of trades at Interactive Brokers, resulting in a loss of \$1,929.26 and commissions and fees of \$868.26. The account was ultimately closed in June 2008.

g. In November 2004, Investor 3 invested \$4,546.67 in an IRA in the “day-trading” platform. During the period November 2004 through May 2009 Chouinard executed hundreds of trades at Interactive Brokers, resulting in a loss of \$1,749.14 and commissions and fees of \$481.48. The account currently has a balance of approximately \$1,516.05.

h. As stated previously, in approximately July 2004, Complainant 4 invested \$30,000 in the “day-trading” platform. During the period July 2004 through May 2009 Chouinard executed hundreds of trades at Interactive Brokers, resulting in a loss of \$8,500.08 and commissions and fees of \$3,062.58. The balance of the account has been withdrawn.

i. During the month of May 2005, while Compliance Examiner Kelley Knight (“Knight”) of LPL was inspecting Chouinard’s OSJ branch office, Chouinard was executing at least 580 securities and futures trades at Interactive Brokers for the DC Associates “day-trading” platform, all of which were conducted during normal LPL business hours, and which caused losses that month

to the eight sub-account investors totaling \$29,749.02 and commissions of \$2,171.52.

j. By June 2005 Chouinard had lost 68% of the investors' funds.

k. By April 2009 Chouinard had lost 92% of investors' funds through his "day trading platform."

l. The investors paid nearly \$75,000 in commissions for their involvement in Chouinard's "day trading platform."

25. Chouinard conducted business on behalf of LPL from OSJ Branch #162803 where he worked as a branch manager.

26. Pursuant to LPL's written supervisory procedures, "the OSJ Branch Manager does not supervise him/herself. LPL Financial home office registered principals supervise OSJ Branch Manger activity."

27. LPL policies and procedures set forth "production requirements" for branch managers, requiring the branch manager to produce minimum production of \$125,000 in Gross Dealer Concession for the trailing 12-months and have at least two years industry experience.

28. It appears Complainant 2's average annual commission was approximately 70% of Chouinard's annual LPL earnings.

29. Without Complainant 2's account activity, Chouinard would not have met the production requirement to be a branch manager.

30. Specifically, in 2007, Complainant 2 paid approximately \$110,990 in commissions to Chouinard and LPL, while Chouinard only grossed an aggregate of \$158,825 from all clients.

31. As stated previously, LPL policies and procedures set forth mutual fund switch requirements that require its agents to obtain a switch letter when a client sells a holding in one family of funds and purchases an investment in a different family of funds. LPL policies and procedures specifically outline the required information as described herein.

32. LPL's policies and procedures require that these documents be maintained for a period of at least six years.

33. A review of LPL's internal documents indicates "Request to Switch Investment Forms" (LPL Form 27) was an item of deficiency on every one of Chouinard's branch office inspections.

34. In a letter to Chouinard dated June 13, 2005, from Knight regarding her May 16, 2005, inspection of Chouinard's OSJ branch office, Knight reported to Chouinard that "the Requests to Switch Investment Forms being obtained by your office are not always completed in full. All sections of the switch letter must be completed in full. The switch letter should provide a detailed explanation of the rationale supporting the transaction and the net financial benefit to the client in the short run and over the long term of product ownership."

35. Similarly, in a letter to Chouinard dated October 11, 2006, from Cari Smith ("Smith"), an LPL Compliance Examiner, regarding her September 11, 2006, OSJ branch office inspection, Smith stated to Chouinard that the absence of "switch letters" for clients was an item previously drawn to his attention in the previous year's audit.

36. Smith reported to Chouinard that he is not obtaining “switch letters” as required by LPL and pointed out that he is not delivering a current prospectus to each client to whom he presents an investment.

37. In another letter to Chouinard dated August 12, 2007, from Smith regarding her September 11, 2006, OSJ branch office inspection, Smith followed up on her previous request for documentation.

38. Additionally, in subsequent letters to Chouinard dated September 18, 2007, and September 28, 2007, from Knight regarding her August 13, 2007, inspection of his OSJ branch office, Knight reminded Chouinard that he was previously cited for not delivering a current prospectus to each client that is presented an investment offered by prospectus and obtaining a prospectus receipt.

39. Knight required him to provide prospectus receipts for eight clients, including Complainant 2.

40. Additionally, Knight reminded Chouinard that he was previously cited in his two prior audits for not obtaining the Request to Switch Investment Forms (F27) for any switches between mutual funds and required Chouinard to obtain switch forms for two selected clients.

41. In an LPL Internal Compliance memo dated January 10, 2008, to Chouinard, LPL required that, no later than January 15, 2008, he provide switch letters regarding 16 transactions in Complainant 2’s account #5338-6319 involving \$1,067,580 in mutual fund purchases resulting in \$37,810.30 in commissions and \$1,075,382.53 in mutual fund sales during the period October and November 2007.

42. If LPL actually received the switch letters from Chouinard, it did not provide them to the Securities Department when the Securities Department requested copies of the switch letters involving the mutual fund transactions in Complainant 2's account.

43. In an e-mail to Chouinard dated March 20, 2008, Lynn Carol ("Carol") of LPL requested five switch letters for mutual funds switches for selected LPL customers, which included four mutual fund switches in Complainant 1's account.

44. In a follow-up e-mail from Carol dated March 27, 2008, Carol told Chouinard that "failure to respond to this request [to provide the requested mutual fund switch letters] will result in disciplinary action."

45. Even though LPL requested on numerous occasions copies of the switch letters, it is unable to produce any switch letters regarding Complainant 1's account to the Securities Department.

46. In a letter to Chouinard dated May 29, 2008 from Mark Findling ("Findling"), an LPL Compliance Examiner, regarding his April 30, 2008, inspection of Chouinard's OSJ branch office, Findling stated to Chouinard that he was cited in the two previous inspections for not obtaining a signed Prospectus Receipt from every client that was presented an investment offered by prospectus.

47. Findling required Chouinard to provide prospectus receipts for nine LPL clients, including Complainant 3.

48. Additionally, Findling reminded Chouinard that he had been cited in the past three inspections for not obtaining the Request to Switch Investments Form (F27) for

any switches between mutual fund families and he required Chouinard to provide the forms for seven clients, including Complainant 3.

49. In an e-mail dated February 13, 2009, Aoife deRoiste of LPL requested that Chouinard provide copies of the switch letters for three mutual fund sells and eight mutual fund purchases in Complainant 2's account #5338-6319.

50. The switch letters for these transactions were included in the 17 switch letters provided by LPL to the Securities Department, which include fabrication of Complainant 2's signature.

CONCLUSIONS OF LAW

1. The Montana State Auditor is the Commissioner of Securities and Insurance ("Commissioner") pursuant to Mont. Code Ann. §§ 30-10-107, 2-15-1903, and 33-1-301.

2. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. §§ 30-10-102, 30-10-107, 30-10-201, 30-10-301, 30-10-304, 30-10-305, 30-10-307, 30-10-324, 30-10-325, 33-1-102, 33-1-301, 33-1-317, 33-17-201, 33-17-1001.

3. The administration of the Securities Act of Montana, Mont. Code Ann. § 30-10-101, *et seq.*, is under the supervision and control of the Commissioner pursuant to Mont. Code Ann. § 30-10-107.

4. The Montana Insurance Department is under the control and supervision of the Commissioner pursuant to Mont. Code Ann. §§ 2-15-1902 and 33-1-301.

5. The Commissioner shall administer the Insurance Department to protect consumers pursuant to Mont. Code Ann. § 33-1-311.

6. The Commissioner shall administer the Securities Department to protect investors pursuant to Mont. Code Ann. § 30-10-102.

7. Chouinard is a Montana registered salesperson pursuant to Mont. Code Ann. § 30-10-103(20), and was so registered during the relevant time period.

8. Pursuant to Mont. Code Ann. § 30-10-301(1)(b), it is “unlawful for a person, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from this state, to make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.”

9. Chouinard violated Mont. Code Ann. § 30-10-301(1)(b) by misrepresenting material facts regarding the securities transactions he made for the Complainants in their LPL accounts including, but not limited to:

- a. Failing to inform Complainant 1, Complainant 2, and Complainant 3 that Chouinard’s mutual fund trading strategy was excessive in nature; would result in high costs to them; was contrary to Complainant 1’s stated investment objective of “growth”; and was contrary to Complainant 2’s and Complainant 3’s stated investment objectives of “income and moderate growth;”
- b. Failing to get prior authorization from Complainant 1, Complainant 2, and Complainant 3 to trade in their LPL accounts since their accounts were non-discretionary;

- c. Failing to inform Complainant 1, Complainant 2, and and Complainant 3 that Chouinard was “soliciting” the mutual fund transactions;
- d. Failing to obtain proper “switch letters” signed by Complainant 1, Complainant 2, and Complainant 3 for the mutual fund switches Chouinard executed in their accounts;
- e. Failing to inform Complainant 2 of the type and amount of fees associated with Complainant 2’s variable annuity;
- f. Intentionally misrepresenting the values of Complainant 1’s, Complainant 2’s, and Complainant 3’s mutual fund investments;
- g. Failing to provide Complainant 1, Complainant 2, and Complainant 3 with a prospectus for each mutual fund he purchased in their accounts;
- h. Failing to obtain Complainant 2’s authorization to purchase the variable annuity with Hartford Life;
- i. Failing to provide Complainant 2 with a disclosure document, prospectus, or brochure on the variable annuity;
- j. Failing to provide Complainant 1, Complainant 2, and Complainant 3 with the option of establishing an investment advisory account instead of a retail brokerage account for the purpose of minimizing commissions and fees;

- k. Taking money from Complainant 1's, Complainant 2's, and Complainant 3's LPL accounts for a day trading program and not accounting for it;
- l. Intentionally misrepresenting and overstating the value of Complainant 1's day trading DC Associates sub-account with Interactive Brokers by 1,500%; Complainant 2's day trading DC Associates sub-account by 10,000%; and Complainant 3's day trading DC Associates sub-account by 1000%;
- m. Intentionally misrepresenting to Complainant 1, Complainant 2, Complainant 3, and Complainant 4 that the DC Associates day trading account was associated with LPL;
- n. Offering and selling an investment to Complainant 2 in Cradlepoint, but failing to provide proof of ownership;
- o. Intentionally misrepresenting to Complainant 2 that Cradlepoint was going to go public;
- p. Failing to inform Complainant 2 that he was depositing her Cradlepoint investment money into his DC Wealth account to be used for his own personal expenses;
- q. Failing to provide Complainant 1, Complainant 2, Complainant 3, and Complainant 4 with any statements or IRS form 1099s for their DC Associates sub-account with Interactive Brokers;

- r. Intentionally misrepresenting to Complainant 4 that Complainant 4 would not have any tax consequences on the DC Associates sub-account until Complainant 4 took a withdrawal;
- s. Intentionally misrepresenting to Complainant 4 that Complainant 4 would receive a 40% return in 30 days on the investment in the DC Associates day trading platform with Interactive Brokers;
- t. Intentionally misrepresenting to Complainant 4 that Complainant 4 would have access to the second \$100,000 investment in the DC Associates day trading platform at any time; and
- u. Failing to inform Complainant 4 that the \$100,000 Complainant 4 gave him to invest in the day trading platform was actually deposited into his DC Wealth account to use as Chouinard saw fit.

10. Pursuant to Mont. Code Ann. § 30-10-301(1)(c), it is “unlawful for a person, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from this state, to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon a person.”

11. Chouinard violated Mont. Code Ann. § 30-10-301(1)(c) by engaging in an act, practice, and course of business that acted as a fraud on the Complainants when he performed the following acts:

- a. The act, practice, and course of business, of executing dozens of unsuitable transactions for Complainant 1 and Complaint 3, and hundreds of unsuitable transactions for Complainant 2 resulting in high commissions to himself and LPL, contrary to Complainant 1’s

- stated investment objective of “growth” and Complainant 2’s and 3’s stated investment objectives of “income and moderate growth”;
- b. The act, practice, and course of business, of purchasing Class “A” shares in different families of mutual funds and switching the funds after holding them for short periods of time, contrary to Complainant 1’s, Complainant 2’s, and Complainant 3’s stated investment objectives;
 - c. The act, practice, and course of business, of excessively trading in mutual funds without grounds to believe that the transactions or recommendations were suitable for Complainant 1, Complainant 2, and Complainant 3 based upon reasonable inquiry concerning their investment objectives, financial situations, or needs;
 - d. The act, practice, and course of business of Chouinard failing to obtain switch letters and delivering prospectuses for each of the mutual fund switches he conducted in Complainant 1’s, Complainant 2’s, and Complainant 3’s accounts; and failing to deliver a prospectus to Complainant 2 for her variable annuity;
 - e. The act, practice, and course of business, of Chouinard continually misrepresenting the value of Complainant 1’s, Complainant 2’s, Complainant 3’s, and Complainant 4’s DC Associates sub-account with Interactive Brokers;
 - f. The act, practice, and course of business, of Chouinard fabricating Complainant 2’s signature on some of the switch letters;

- g. The act, practice, and course of business of Chouinard failing to include in some of Complainant 2's switch letters the name of the mutual fund being sold and purchased; failing to include the surrender charges, redemption fees, commissions, sales charges, transfer fees and other costs associated with the liquidation and purchase, including the percentage of investment value; and Chouinard's reasons outlined for the exchanges were simplistic and absent of advantages and disadvantages;
- h. The act, practice, and course of business, of not getting prior authorization from Complainant 1, Complainant 2, and Complainant 3 to trade in their LPL accounts;
- i. The act, practice, and course of business, of causing Complainant 1, Complainant 2, and Complainant 3 to miss breakpoint opportunities and rights of accumulation;
- j. The act, practice, and course of business, of taking money from Complainant 1's, Complainant 2's and Complainant 3's LPL accounts for a day trading program and not accounting for it;
- k. The act, practice, and course of business, of intentionally misrepresenting to Complainant 1, Complainant 2, and Complainant 3 that the DC Associates day trading platform was associated with LPL;
- l. The act, practice, and course of business, of failing to obtain Complainant 1's, Complainant 2's, and Complainant 3's approval

for the mutual fund transactions since their accounts were non-discretionary;

- m. The act, practice, and course of business, of offering and selling an investment to Complainant 2 in Cradlepoint, but failing to provide proof of ownership;
- n. The act, practice, and course of business, of depositing Complainant 2's money into his DC Wealth account to be used for his own personal expenses;
- o. The act, practice, and course of business, of failing to provide prospectuses to Complainant 2 on Complainant 2's mutual funds or variable annuity.
- p. The act, practice, and course of business, of not providing Complainant 1, Complainant 2, Complainant 3, and Complainant 4 with any statements or IRS form 1099s for their DC Associates sub-account with Interactive Brokers;
- q. The act, practice, and course of business, of intentionally misrepresenting to Complainant 4 that Complainant 4 would receive a 40% return in 30 days on the investment in the DC Associates day trading platform;
- r. The act, practice, and course of business, of intentionally misrepresenting to Complainant 4 that Complainant 4 would have access to the \$100,000 investment at any time; and

- s. The act, practice, and course of business, of depositing the \$100,000 Complainant 4 gave Chouinard to invest in the DC Associates day trading platform into his DC Wealth account to use as Chouinard saw fit.

12. Pursuant to Mont. Code Ann. § 30-10-201(13)(g), the Commissioner may by order deny, suspend, or revoke registration of any broker-dealer, salesperson, investment adviser, or investment adviser representative if the Commissioner finds that the order is in the public interest and that the broker-dealer or investment adviser, any partner, officer, director, person occupying a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser has engaged in dishonest or unethical practices in the securities business.

13. Pursuant to § 6.10.401(2)(f) of the Administrative Rules of Montana (“ARM”), “unethical practices” as used in Mont. Code Ann. § 30-10-201(13)(g) means inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account. Additionally, pursuant to ARM § 6.10.401(2)(f), “unethical practices” as used in Mont. Code Ann. § 30-10-201(13)(g) means recommending to a customer the purchase, sale, or exchange of a security without grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer.

14. Chouinard violated Mont. Code Ann. § 30-10-201(13)(g) and ARM § 6.10.401(2)(f), by engaging in a dishonest or unethical practice when he:

- a. Recommended and then induced trading in Complainant 1's, Complainant 2's, and Complainant 3's accounts which was excessive in size or frequency in view of their investment objectives and character of their accounts and without grounds to believe the transaction was suitable for them;
- b. Failed to place Complainants 1, 2, and 3 in an LPL managed account such as SAM or SAM II instead of a retail brokerage account, which would have given the Complainants access to similar mutual fund investments for a fraction in costs and fees, as compared to what they were charged by Chouinard and LPL for the hundreds of mutual fund transactions he executed in their retail brokerage accounts;
- c. Recommended to Complainant 4 that Complainant 4 invest in the DC Associates' day trading program at Interactive Brokers without grounds to believe that the transaction was suitable for Complainant 4, considering Complainant 4's investment objectives, financial situation, and needs; and
- d. Recommended to Complainant 2 that Complainant 2 invest in Cradlepoint without grounds to believe that the transaction was suitable for Complainant 2, considering Complainant 2's investment objectives, financial situation, and needs.

15. Pursuant to ARM § 6.10.401(2)(f), "unethical practices" as used in Mont. Code Ann. § 30-10-201(13)(g) means executing a transaction on behalf of a customer

without authorization to do so. Additionally, pursuant to ARM § 6.10.401(2)(f), “unethical practices” as used in Mont. Code Ann. § 30-10-201(13)(g) means exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for the execution of orders or to both time and price for the execution of orders.

16. Chouinard violated Mont. Code Ann. § 30-10-201(13)(g) and ARM § 6.10.401(2)(f), by engaging in a dishonest or unethical practice when he:

- a. Failed to obtain Complainant 1’s written discretionary authority and then made dozens of trades in Complainant 1’s account without Complainant 1’s authorization;
- b. Failed to obtain Complainant 2’s written discretionary authority and then made hundreds of trades in Complainant 2’s account without Complainant 2’s authorization;
- c. Failed to obtain Complainant 3’s written discretionary authority and then made dozens of trades in Complainant 3’s account without Complainant 3’s authorization;
- d. Deposited Complainant 4’s \$100,000 investment into his own DC Wealth account without Complainant 4’s authorization, instead of investing it as he represented to Complainant 4; and
- e. Deposited Complainant 2’s \$50,000 investment into his own DC Wealth account without Complainant 2’s authorization, instead of investing it in Cradlepoint.

17. Pursuant to ARM § 6.10.401(2)(f), “unethical practices” as used in Mont. Code Ann. § 30-10-201(13)(g) means entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.

18. Chouinard violated Mont. Code Ann. § 30-10-201(13)(g) and ARM § 6.10.401(2)(f), by engaging in a dishonest or unethical practice when he:

- a. Made numerous unsuitable switches in Complainant 1’s, Complainant 2’s, and Complainant 3’s mutual funds, respectively, which allowed him to receive hundreds of thousands of dollars in unreasonable commissions;
- b. Deposited Complainant 4’s \$100,000 investment in the DC Associates day trading platform into his DC Wealth account, allowing him to receive a grossly unreasonable profit; and
- c. Deposited Complainant 2’s \$50,000 investment in Cradlepoint into his DC Wealth account, allowing him to receive a grossly unreasonable profit.

19. Pursuant to ARM § 6.10.401(2)(f), “unethical practices” as used in Mont. Code Ann. § 30-10-201(13)(g) means failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and any additional documents, which together include all information set forth in the final prospectus.

20. Chouinard violated Mont. Code Ann. § 30-10-201(13)(g) and ARM § 6.10.401(2)(f), by engaging in a dishonest or unethical practice when he:

- a. Failed to furnish Complainant 1 a prospectus on any of the mutual funds or DC Associates sub-account with Interactive Brokers;
- b. Failed to furnish Complainant 2 a prospectus on any of Complainant 2's mutual funds, the DC Associates sub-account with Interactive Brokers, and the Hartford Life annuity;
- c. Failed to furnish Complainant 3 a prospectus on any of the mutual funds or the DC Associates sub-account with Interactive Brokers;
- d. Failed to furnish Complainant 4 a prospectus on Complainant 4's DC Associates sub-account with Interactive Brokers; and
- e. Failed to furnish to any of the Complainants IRS Form 1099 for their DC Associates sub-accounts with Interactive Brokers.

21. Pursuant to ARM § 6.10.401(2)(f), "unethical practices" as used in Mont. Code Ann. § 30-10-201(13)(g) means publishing or circulating, or causing to be published or circulated, a notice, circular, sales material, newspaper article, investment service, or communication of any kind which purports to report a transaction as a purchase or sale of a security unless the broker-dealer believes that the transaction was a bona fide purchase or sale of the security.

22. Chouinard violated Mont. Code Ann. § 30-10-201(13)(g) and ARM § 6.10.401(2)(f), by engaging in a dishonest or unethical practice when he repeatedly overstated the value of all of Complainants DC Associates sub-accounts with Interactive Brokers.

23. Pursuant to ARM § 6.10.401(2)(f), “unethical practices” as used in Mont. Code Ann. § 30-10-201(13)(g) means using sales material or sales presentations in a deceptive or misleading fashion.

24. Chouinard violated Mont. Code Ann. § 30-10-201(13)(g) and ARM § 6.10.401(2)(f), by engaging in a dishonest or unethical practice when he:

- a. Deceptively convinced Complainant 2 to give him \$50,000 to invest in Cradlepoint, even though Chouinard never invested the money, but instead deposited the money into his DC Wealth account for his own personal use; and
- b. Deceptively convinced Complainant 4 to give him \$100,000 to invest in the DC Associates day trading platform, even though Chouinard never invested the money, but instead deposited the money into his DC Wealth account for his own personal use.

25. Pursuant to ARM § 6.10.401(2)(g), “unethical practices” as used in Mont. Code Ann. § 30-10-201(13)(g) means engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices.

26. Chouinard violated Mont. Code Ann. § 30-10-201(13)(g) and ARM § 6.10.401(2)(g), by engaging in a dishonest or unethical practice when he:

- a. Embezzled \$100,000 of Complainant 4’s money;
- b. Embezzled \$50,000 of Complainant 2’s money;
- c. Deceptively fabricated Complainant 2’s signature on a certain number of Complainant 2’s switch letters;

- d. Manipulated each Complainant into investing in DC Associates sub-accounts with Interactive Brokers; and
- e. Failed to provide switch letters to Complainants 1, 2, and 3 for each of the hundreds of mutual fund switches Chouinard conducted in their accounts.

27. Pursuant to Mont. Code Ann. § 30-10-324(6)(a), a "Pyramid promotional scheme" means a sales plan or operation in which a participant gives consideration for the opportunity to receive compensation derived primarily from obtaining the participation of other persons in the sales plan or operation rather than from the sale of goods or services by the participant or the other persons induced to participate in the sales plan or operation by the participant.

28. Pursuant to Mont. Code Ann. § 30-10-324(6)(b), a pyramid promotional scheme includes a Ponzi scheme, in which a person makes payments to investors from money obtained from later investors, rather than from any profits or other income of an underlying or purported underlying business venture.

29. Pursuant to Mont. Code Ann. § 30-10-325(1), a person may not conduct or promote or cause to be conducted or promoted a pyramid promotional scheme.

30. Pursuant to Mont. Code Ann. § 30-10-325(3), a person who violates the provisions of subsection (1) shall, for each participant giving consideration, be assessed a civil penalty in an administrative proceeding in an amount not to exceed \$10,000.

31. Chouinard violated Mont. Code Ann. § 30-10-325(1) by conducting and promoting a Ponzi scheme when he took \$50,000 of Complainant 4's \$100,000 intended

investment in the DC Associates day trading platform and gave it to Complainant 2 for Complainant 2's previously supposed \$50,000 investment in Cradlepoint.

32. Pursuant to Mont. Code Ann. § 33-20-805(1), in recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer or the insurer when an insurance producer is not involved must have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer's investments, other insurance products, financial situation, and needs.

33. Chouinard violated Mont. Code Ann. § 33-20-805(1) when he purchased, without Complainant 2's authorization, an unsuitable Hartford Life variable annuity for Complainant 2, contrary to Complainant 2's investments, financial situation, and needs.

34. Pursuant to Mont. Code Ann. § 33-17-1001(1)(c), the Commissioner may suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, adjuster license, or consultant license, may levy a civil penalty in accordance with Mont. Code Ann. § 33-1-317, or may choose any combination of actions when an insurance producer, adjuster, consultant, or applicant for those licenses has violated or failed to comply with a provision of the Montana Insurance Code.

35. Chouinard violated Mont. Code Ann. § 33-17-1001(1)(c) by:

- a. Failing to provide specific information relevant to the variable annuity he purchased for Complainant 2, including a disclosure document, brochure, or prospectus; and

- b. Failing to get Complainant 2's authorization to purchase the variable annuity.

36. Pursuant to Mont. Code Ann. § 33-17-1001(1)(f), the Commissioner may suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, adjuster license, or consultant license, may levy a civil penalty in accordance with Mont. Code Ann. § 33-1-317, or may choose any combination of actions when an insurance producer, adjuster, consultant, or applicant for those licenses has in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public.

37. Chouinard is in violation of Mont. Code Ann. § 33-17-1001(1)(f) in that, while in the conduct of the affairs under his insurance producer license, Chouinard used fraudulent, coercive, or dishonest practices on Complainant 2 or was otherwise incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public and Complainant 2.

38. Pursuant to Mont. Code Ann. § 30-10-305(1)(a), if it appears to the Commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the Securities Act of Montana, the Commissioner may issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for hearing. The Commissioner may issue a temporary order pending the hearing that (i) remains in effect until 10 days after the hearing examiner issues proposed findings of fact and conclusions

of law and a proposed order; or (ii) becomes final if the person to whom notice is addressed does not request a hearing within 15 days after receipt of the notice.

39. Pursuant to Mont. Code Ann. § 30-10-304(3), the Commissioner may, after giving reasonable notice and an opportunity for a hearing under the Securities Act, impose a fine not to exceed \$5,000 per violation upon a person found to have engaged in any act or practice constituting a violation of any provision of parts 1 through 3 of Chapter 10 of the Securities Act or any rule or order issued under parts 1 through 3 of Chapter 10 of the Securities Act.

40. Pursuant to Mont. Code Ann. § 33-1-318(1)(b), if it appears to the Commissioner that a person has engaged in or is about to engage in an act or practice constituting a violation of Title 33, Chapter 17, the Commissioner may issue a temporary cease and desist order that must remain in effect until 10 days after the hearing is held. If the Commissioner issues a temporary cease and desist order, the Respondent has 15 days from receipt of the order to make a written request for a hearing on the allegations contained in the order. The hearing must be held within 20 days of the Commissioner's receipt of the hearing request unless the time is extended by agreement of the parties. If the Respondent does not request a hearing within 15 days of receipt of the order and the Commissioner does not order a hearing, the order becomes final.

41. Pursuant to Mont. Code Ann. § 33-1-318(3), the Commissioner may, after giving reasonable notice and an opportunity for a hearing under this section, impose a fine not to exceed \$5,000 for each violation upon a person found to have engaged in an act or practice constituting a violation of a provision of the Insurance Code or any rule or order issued under the Insurance Code.

CEASE AND DESIST ORDER

Pursuant to Mont. Code Ann. §§ 30-10-305 and 33-1-318, it appears to the Departments that the above-named Respondents have engaged, are engaged, or are about to engage in acts or practices constituting violations of the Securities Act of Montana, Montana Code Ann. § 30-10-101 *et seq.*, and the Montana Insurance Code, Title 33, Chapter 17.

1. Therefore, **IT IS HEREBY ORDERED** that the Respondents, their agents, employees, and all other persons participating in or about to participate in the above-described violations with knowledge of this Order shall immediately cease and desist from:

a. violating Mont. Code Ann. § 30-10-301(1)(b) by, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from this state, to making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

b. violating Mont. Code Ann. § 30-10-301(1)(c) by, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from this state, engaging in any act, practice, or course of business that operates or would operate as a fraud or deceit upon a person;

c. violating Mont. Code Ann. § 30-10-201(13)(g) by committing dishonest or unethical practices in the securities business via inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account and via recommending to a customer the

purchase, sale, or exchange of a security without grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

d. violating Mont. Code Ann. § 30-10-201(13)(g) by committing dishonest or unethical practices in the securities business via executing a transaction on behalf of a customer without authorization to do so and via exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for the execution of orders or to both time and price for the execution of orders;

e. violating Mont. Code Ann. § 30-10-201(13)(g) by committing dishonest or unethical practices in the securities business via means entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

f. violating Mont. Code Ann. § 30-10-201(13)(g) by committing dishonest or unethical practices in the securities business via failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and any additional documents, which together include all information set forth in the final prospectus;

g. violating Mont. Code Ann. § 30-10-201(13)(g) by committing dishonest or unethical practices in the securities business via publishing or

circulating, or causing to be published or circulated, a notice, circular, sales material, newspaper article, investment service, or communication of any kind which purports to report a transaction as a purchase or sale of a security unless the broker-dealer believes that the transaction was a bona fide purchase or sale of the security;

h. violating Mont. Code Ann. § 30-10-201(13)(g) by committing dishonest or unethical practices in the securities business via using sales material or sales presentations in a deceptive or misleading fashion;

i. violating Mont. Code Ann. § 30-10-201(13)(g) by committing dishonest or unethical practices in the securities business via engaging in conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices;

j. violating Mont. Code Ann. § 30-10-325(1) by conducting and promoting a Ponzi scheme;

k. violating Mont. Code Ann. § 33-10-805(1) by recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer or the insurer when an insurance producer is not involved must have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer's investments, other insurance products, financial situation, and needs;

l. violating Mont. Code Ann. § 33-17-1001(1)(c) by failing to comply with the provisions of the Insurance Code;

m. violating Mont. Code Ann. § 33-17-1001(1)(f) by, while in the conduct of the affairs under his insurance producer license, using fraudulent, coercive, or dishonest practices or being otherwise incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public;

n. engaging in any other act, practice, or course of business that violates any section of the Securities Act of Montana or the Montana Insurance Code.

2. **IT IS FURTHER ORDERED** that, pursuant to Mont. Code Ann. §§ 30-10-305(3) and 33-1-318(3), the Commissioner will determine whether to impose a fine of up to five thousand dollars (\$5,000) against each Respondent for multiple violations of Mont. Code Ann. § 30-10-101 *et seq.*, and Mont. Code Ann. § 33-1-101, *et seq.*, unless the Respondents request a hearing and show cause why the penalty should not be imposed.

3. **IT IS FURTHER ORDERED** that this Order is effective immediately and (i) shall continue in full force and effect until 10 days after the hearing examiner issues proposed findings of fact and conclusions of law and a proposed order or (ii) becomes final if the person to whom notice is addressed does not request a hearing within 15 days after receipt of the notice.

NOTICE OF RIGHT TO HEARING

You are entitled to a hearing and to respond to this Temporary Cease and Desist Order and to present evidence and arguments on all issues involved in this case. If you wish to contest the allegations herein, you must make a written request for a hearing within 15 days of receipt of this Order to Jesse Laslovich, Attorney to the Commissioner

of Securities and Insurance, Office of the State Auditor, 840 Helena, Avenue, Helena, MT 59601. The hearing shall then be held within 20 days of the Commissioner's receipt of the hearing request, unless the time is extended by agreement of the parties or by order of the hearing examiner. If you do not request a hearing and the Commissioner orders none, this Order shall become permanent, and the above allegations will be declared the findings of fact and the above conclusions of law will be declared the final conclusions of law.

Should you request a hearing, you have the right to be accompanied, represented and advised by an attorney. If the attorney you choose has not been admitted to the practice of law in the state of Montana, she or he must comply with the Montana State Bar for appearing *pro hac vice*, the requirements of *Application of American Smelting and Refining, Co.*, 164 Mont. 139, 520 P.2d 103 (1973), and *Montana Supreme Court Commission on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200 (2006). If you request a hearing, you will be given notice of the date, time, and place of the hearing.

DATED this 17th day of SEPTEMBER, 2009.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Montana State Auditor

By: 
LYNNE EGAN
Deputy Commissioner of Securities

By: 
ROBERT W. MOON
Deputy Commissioner of Insurance

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17 day of SEPTEMBER, 2009,
a true and correct copy of the foregoing Temporary Cease and Desist Order and
Opportunity for Hearing was served upon the following by certified mail, with postage
prepaid and return receipt requested:

DONALD L. CHOUINARD
279 McWenneger Drive
Kalispell, MT 59901

DC WEALTH MANAGEMENT, INC.
279 McWenneger Drive
Kalispell, MT 59901

DC ASSOCIATES, INC.
279 McWenneger Drive
Kalispell, MT 59901

By: 